

DETAILED ACTION

1. Claims 1-2, 8, 18, 29-33, 35 and 36 are pending.
2. Claims 30, 32 and 33 stand withdrawn from further consideration by the examiner, 37 C.F.R. 1.142(b) as being drawn to non-elected inventions.
3. Claims 1-2, 8, 18, 29, 31, 35 and 36 are being acted upon in this Office Action.
4. Applicant's amendment to claims 1, 8, 35 and added new claim 36, filed January 16, 2008, is acknowledged.
5. However, the following are noted.
 - The "protein" in claims 29 and 35 raises the issue of antecedent basis under 35 U.S.C 112 second paragraph.
 - This application contains claims directed to the following patentably distinct species of conjugate comprising a first sequence wherein the first sequence comprises a first antibody or antibody fragment which binds to distinct antigen presenting cell surface molecule identifiable in claims 8, and 35 and a second sequence which comprises a distinct Notch ligand or fragment thereof wherein the Notch ligand is identifiable in claims 8 and 36, for example.

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics. For example, these targeting antibody in the claimed conjugate has different binding specificity identifiable in claims 18 and 35 and targeting second sequence such as Notch ligand having different structure identifiable in claims 8 and 36. Therefore, they are patentably distinct.

Applicant is further required under 35 U.S.C. § 121 to elect a single disclosed species of conjugate comprising a first sequence and second sequences wherein the first sequence comprising a specific antibody or fragment thereof that binds to (A) a specific antigen presenting cell surface molecule such as the ones recited in claims 18 and 35, and (B) a specific second sequence comprising a specific Notch ligand DSL domain and at least one EGF-like repeat

identifiable in claims 8, and 36 for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 31 are generic.

There is an examination and search burden for these patentably distinct species of conjugate comprising distinct targeting antibody linked to different Notch ligand due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh, Ph.D. whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Thursday from 9:00 a.m. to 6:30 p.m. and alternate Friday from 9:00 a.m. to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen B O'Hara can be reached on (571) 272-0878. The IFW official Fax number is (571) 273-8300.
7. Any information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phuong Huynh/

Primary Examiner, Art Unit 1644

April 11, 2008